

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-14 are pending. Claims 1, 6, 7, 9, 10, and 12 are amended.

In response to the objections to the claims in the outstanding Office Action, Applicant has made some minor changes throughout the claims to eliminate the “with” language that the Examiner found objectionable and to correct several typographical errors.

In the outstanding Office Action, Claims 1-6, 8-9, and 11-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shaffer in view of Egawa and further in view of Bernard; Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Shaffer, Egawa, and Bernard and further in view of Reisman; and Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Shaffer, Egawa, and Bernard and further in view of Spagna. Applicant respectfully traverses these rejections on the grounds that independent Claim 1, when considered as a whole, is neither anticipated by nor obvious over the applied references.

Recapitulating briefly, the present invention relates to a digital content downloading method using a network. The method includes the steps of receiving information designating a desired digital content selected by a consumer and a desired digital content transmission condition related to quality of communication selected by the consumer at a digital content retailer possessing the desired digital content, sending a request from the digital content retailer for a reservation for the network managed by a network operator according to the desired digital content transmission condition sent from the consumer, providing from the digital content retailer the desired digital content designated by the information at the desired digital content transmission condition, collecting from the consumer with the digital content retailer a charge for the desired digital content where the charge includes a transmission

charge corresponding to the desired digital content transmission condition, and paying with the digital content retailer the transmission change to the network operator.

Neither the primary reference of Shaffer nor the secondary reference of Egawa discloses the claimed step of “sending a request from the digital content retailer, for a reservation for the network managed by a network operator according to the desired digital content transmission condition sent from the consumer.” Specifically, page 3 of the outstanding Office Action indicates that “Shaffer does not specifically disclose and teach requesting, with the digital content retailer, [] a reservation for the network managed by a network operator according to the desired digital content transmission condition sent from the consumer.” Page 3 of the Office Action also indicates that “Egawa does not specifically disclose a content retailer.” Even if the “user” in the Egawa system were a digital content retailer (which it is not), there is no teaching or suggestion in Egawa that such a user “receive[es] information designating a desired digital content selected by a consumer and a desired digital content transmission condition related to quality of communication selected by the consumer,” as the digital content retailer does in Claim 1. Thus, whether or not the user is called a digital content retailer is of no consequence because the user does not exhibit the characteristics of the digital content retailer of Claim 1.

Likewise, Bernard fails to teach or suggest a digital content retailer that performs both the step of “receiving through a network information designating a desired digital content selected by a consumer and a desired digital content transmission condition related to quality of communication selected by the consumer” and the step of “sending a request ... for a reservation for the network managed by a network operator according to the desired digital content transmission condition sent from the consumer,” as recited in Claim 1. The other applied references, Reisman and Spagna, fail to account for the above-noted deficiencies of the references applied against Claim 1.

Therefore, none of the applied references, when considered alone or in any proper combination, are believed to anticipate or make obvious the invention of Claim 1.

Accordingly, Applicant submits that Claim 1 and all claims dependent therefrom patentably distinguish over the applied references.

Further, the outstanding Office Action includes numerous instances where Official Notice has apparently been taken of various claim limitations. Applicant respectfully submits that the following features are *not* old and well known in combination with the claimed invention: collecting a charge from the user that includes a transmission cost and paying the network operator (Office Action at 5-6); a desired digital content transmission condition selected by the consumer corresponds to a communication quality of each of plural networks managed by plural network operators (Office Action at 8); sending from the digital content retailer an accounting notice corresponding to the charge for the desired digital content to a credit company, requesting that the credit company send a bill which corresponds to the charge for the desired digital content to the consumer in response to the accounting notice, requesting that the consumer pay the charge for the desired digital content to the credit company in response to the bill, and requesting that the credit company pay the charge paid by the consumer to the digital content retailer (Office Action at 11); and checking, by the digital content retailer, through the network whether or not the consumer is capable of receiving the desired digital content, before the desired digital content is provided to the consumer at the desired digital content transmission condition (Office Action at 13).

Applicant respectfully requests that a proper rejection over prior art references that disclose these features be made, or that all of the rejections for which references were not provided to disclose each claim limitation (including the ones noted above) be withdrawn.

Application No. 09/692,197  
Reply to Office Action of June 21, 2004.

In view of the foregoing discussion, no further issues are believed to be outstanding in this application. Therefore, Applicant respectfully requests that the present application be allowed and be passed to issue.

Respectfully submitted,

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